

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

RAFAEL SCHETTINI GUTIERREZ

Debtor-Appellee

JESSICA BONANO AND MIS RAICES,
INC.

Creditors-Appellants

Dist. Ct. Appeal No. 13 - 1379 (CCC)

Bankruptcy Appeal of Orders reopening closed bankruptcy case in order to schedule new claim, denying a request to lift the stay in order to litigate State Court Case, discharging Creditor's claims, and closing the Bankruptcy Case after Bankruptcy Court dismissal of Creditor's Adversary Complaint for exemption of claim from discharge under 11 U.S.C. § 523(a)(3) & (a)(10)

Bkrcty. Case No. 09-9000 (MCF) (Chap. 7)

**URGENT MOTION REQUESTING CONSOLIDATION OF
DIST. CT. APPEAL NO. 13-1380 (JAG) AND REQUEST FOR EXTENSION
TO FILE CONSOLIDATED BRIEF AND CONSOLIDATED APPENDIX**

TO THE HONORABLE COURT:

NOW COMES Appellants Mis Raices, Inc. and Jessica Bonano Vázquez (“Creditors” or “Apellants”), through their undersigned counsel, and state, allege and pray:

1. The instant appellate bankruptcy proceeding involves the appeal of the following final orders entered in the Bankruptcy Case In re: Rafael Schettini Gutierrez, Bkptcy Case No. 09-9000 (MCF):

- (a) The Bankruptcy Court's Minute entered on October 26, 2011 and the Order entered on November 3, 2011 reopening the case and allowing debtor to Amend its Schedule F listing claims;
- (b) The Bankruptcy Court's Minutes entered on July 26, 2012, denying a request to lift the stay in order to litigate the State Court case Rafael Schettini et als. v. Isaac Serrano, et als., Civil No. D AC2004-3641 (503), discharging Appellants Creditors' claim, and closing the Bankruptcy Case. Appellants Creditors further appealed an Opinion and Order entered on April 1, 2013, denying Creditor's timely Motion for Reconsideration.

2. The Bankruptcy Court denied the request to lift the stay, discharged Appellants Creditors' claim, and ordered the closing of the case, because it simultaneously dismissed as time barred Appellants' Complaint in the Adversary Case Jessica Bonano and Mis Raices, Inc. v. Rafael Scettini Gutierrez, Adv. No. 12-00237 (MCF) seeking a declaration of exemption of Creditor's claims from discharge. In fact, the dismissal of the adversary case was also ordered in the Bankruptcy Court's Minutes entered on July 26, 2012. This dismissal of the adversary case was separately appealed to this Honorable District Court, and has been docketed as Bonano v. Schettini, Case No. 13-1380 (JAG) and is pending before Hon. Judge Jay A. García Gregory.

3. The CM/ECF system had already issued a notice in both appeals requiring the filing of the Appellants' Brief and Appendix by June 3, 2013.

4. Appellant hereby requests that this Honorable Court consolidate the Dist. Ct. Appeal No. 13 - 1380 (JAG) with the instant Dist. Ct. Appeal No. 13 - 1379 (CCC).

5. Both appeals involve the same parties and relate to the same issues. In fact, as indicated, the Order dismissing as time barred the Adversary Proceeding No. 12-00237 (MCF) (which is the subject of the Dist. Ct. Appeal No. 13 - 1380 (JAG)), was the basis used by the Bankruptcy Court for denying Appellants' request to lift the automatic stay in the actual Bankruptcy Case No. 09-9000 (MCF) (Chap. 7) (which is the subject of the instant Dist. Ct. Appeal No. 13 - 1379 (CCC)).

6. **The instant case Dist. Ct. Appeal No. 13 - 1379 (CCC) is the older case.** The Dist. Ct. Appeal No. 13 - 1380 (JAG) was docketed after. Hence, both proceedings must be consolidated with this Honorable Court in the above captioned case, which is the older case.

7. Moreover, Appellants respectfully request that they be granted an extension of thirty (30) day, to run from the date of entry of the order granting this motion, in order to file a Consolidated Appellants' Brief and a Consolidated Appendix.

WHEREFORE, it is respectfully requested that Honorable District Court **TAKE JUDICIAL NOTICE** of the above, **ORDER THE CONSOLIDATION** of the Dist. Ct. Appeal No. 13 - 1379 (JAG) with the instant captioned case, and **GRANT** appellants an extension of thirty (30) day, to run from the date of entry of the order granting this motion, in order to file a Consolidated Appellants' Brief and a Consolidated Appendix.

I HEREBY CERTIFY: That a true and exact digital copy of the forgoing was sent electronically via the CM/ECF System, which will send notification of such filing to the following: **NOREEN WISCOVITCH-RENTAS**, Chapter 7 Trustee at courts@nwr-law.com, nwiscovitch@ecf.epiqsystems.com; **TERESA M. LUBE CAPÓ**, counsel for the Debtor at lubeysoto@gmail.com, terelube@gmail.com, nilda.buffill@gmail.com, madelinesotopacheco@gmail.com, lys.cmecf@gmail.com; **MONSITA LECAROS ARRIBAS**, US Trustee at ustpregion21.hr.ecf@usdoj.gov; **MIGDALIA EFFIE GUASP** counsel for Creditor Banco Popular PR at megbky@bppr.com, mguasp@bppr.com; **VANESSA M TORRES QUINONES** counsel for Creditor Banco Popular PR (VTQ) at mbaldera@martineztorreslaw.com, jrico@martineztorreslaw.com, vtorres@martineztorreslaw.com, mrivera@martineztorreslaw.com, quiebrasmt@gmail.com; **ARTURO GONZALEZ MARTIN** on behalf of Creditor Coop AC Guaynabo at agm017@yahoo.com, agm017@gmail.com.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on June 4, 2013.

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